

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1376
(Representatives Strinden, Meier, Monson, Pyle, Richter, Satrom, Schreiber-Beck)
(Senators Davison, Meyer)

AN ACT to amend and reenact sections 15-19-01, 15.1-07-25.4, 15.1-31-01, 15.1-31-06, 15.1-31-07, and 15.1-31-08 of the North Dakota Century Code, relating to virtual instruction of students and open enrollment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-19-01 of the North Dakota Century Code is amended and reenacted as follows:

15-19-01. North Dakota center for distance education courses - Establishment - Enrollment of students - Courses of instruction.

The state shall provide kindergarten through grade twelve courses, comprehensive educational support, and high school diplomas through the center for distance education under the following provisions:

1. A complete curriculum prescribed by state-mandated education accreditation entities which meets the requirements for digital education the superintendent of public instruction has determined to be appropriate.
2. ~~A superintendent or an administrator of a school may deny the enrollment of a student in that district at the center for distance education except as provided in subsection 5.~~
3. The center for distance education may provide services to persons who are not North Dakota residents.
- 4.3. ~~Center~~A center for distance education ~~students~~student's school district of residence shall pay fees as may be prescribed by the state board for career and technical education.
- 5.4. Students exempt from the compulsory school attendance laws pursuant to subdivision e of subsection 1 of section 15.1-20-02 may enroll in distance education courses offered through the center for distance education. These students may study their center for distance education lessons in their learning environment under the supervision of a parent.

SECTION 2. AMENDMENT. Section 15.1-07-25.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-25.4. Virtual learning - School district policy - Report to legislative management and legislative assembly.

1. The board of a school district or governing board of a nonpublic school that operates a physical school plant may adopt a policy to allow students to engage in virtual instruction and in the case of a school district, qualify for average daily membership in the district. A resident school district may not deny open enrollment to an approved virtual school.
2. A student or a student's family member may not receive any item, service, or thing of value not given in exchange for fair market consideration from a vendor providing instruction or support under this section.

3. The superintendent of public instruction shall adopt rules governing policies under this section. A policy adopted by a school district under this section must comply with the rules adopted by the superintendent of public instruction.
4. The superintendent of public instruction shall provide ~~biennial reports~~ an annual report to either the legislative management regarding or the legislative assembly. In odd-numbered years, the report must be made to the legislative assembly. In even-numbered years, the report must be made to the legislative management. The annual report must:
 - a. Contain a comparison of the academic performance metrics of students participating in virtual instruction against students not participating in virtual instruction under this section; and
 - b. Use the statewide prekindergarten through grade twelve strategic vision framework goals.
5. If the superintendent of public instruction does not have access to academic performance reports of a school district's virtual instruction subgroup because of the low group size, the district shall provide the annual report required under this section for the district's comparison data.
6. Students enrolled in an approved virtual school do not generate school district sized weighting factors pursuant to section 15.1-27-03.2.

SECTION 3. AMENDMENT. Section 15.1-31-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-01. Open enrollment - Procedure.

1. By March first of the school year preceding the year of enrollment, a parent who wishes to enroll a student in a North Dakota school district other than the student's district of residence shall file an application for approval with the board of the admitting district and shall file a copy of the application with the student's district of residence. The superintendent of public instruction shall make the application forms available in each school district.
2. By April first of the school year preceding the year of enrollment, the board of the admitting district shall approve or deny the application. The board of the admitting district shall notify the board of the district of residence and the student's parent of its decision within five days.
3. Notice of intent to enroll in the admitting district obligates the student to attend the admitting district during the following school year unless the school boards of the resident and the admitting districts agree in writing to allow the student to transfer back to the resident district or the student's parent relocates to another district.
4. A parent who wishes to enroll a student in a school district other than the student's district of residence shall file an application for approval with the board of the admitting district. All applications must be reviewed in the order they are received.
5. A student whose school district of residence does not offer the grade level in which the student requires enrollment may not participate in open enrollment. For purposes of determining whether the grade level in which the student requires enrollment is offered, the several school districts cooperating with each other for the joint provision of education services under a plan approved by the superintendent of public instruction must be considered to be a single district.
6. A child placed for purposes other than education in a group or residential care facility or in a psychiatric residential treatment facility is not eligible for open enrollment under this section.
7. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together

with the student's parent, moves from the student's school district of residence to another school district and who wishes to enroll in a school district other than the district to which the student moved.

8. The board of a school district of residence and the board of an admitting district shall waive the application, consideration, and approval dates in this section for any student who, together with the student's parent, moves into this state from out of state and who wishes to enroll in a school district other than the district to which the student moved.

SECTION 4. AMENDMENT. Section 15.1-31-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-06. Open enrollment - School boards - Standards.

1. The board of each school district shall set standards for the acceptance and denial of applications for admittance under open enrollment as provided in section ~~15.1-31-04~~ 15.1-31-08. The standards may address the capacity of a program, ~~class~~, grade level, or school building. The standards may not address previous academic achievement, participation in extracurricular activities, disabilities, English language proficiency, or previous disciplinary proceedings.
2. A board may also determine that applications for admittance under open enrollment, in accordance with this chapter, will not be considered only if there is a lack of capacity in a program, grade level, or school.
3.
 - a. A school district participating in an open enrollment program may not give or offer to give a student remuneration, or directly exert influence on the student or the student's family, in order to encourage participation in the open enrollment program. The actions prohibited under this subdivision do not include providing informational materials about the program.
 - b. ~~For purposes of this subsection, directly exerting influence means providing information about the school district to individuals who are not residents of that district unless the information is requested.~~
 - c. If the members of the board of a school district believe that another school district has violated this subsection, the board may file a complaint with the superintendent of public instruction. Upon receipt of a complaint alleging a violation of this subsection, the superintendent of public instruction shall hold a hearing and accept testimony and evidence regarding the complaint. If the superintendent finds that a school district has violated this subsection, the superintendent may withhold some or all of the state aid payments to which the district would be otherwise entitled for a period of one year from the date of the finding. A decision by the superintendent under this subsection is appealable to the state board of public school education. A decision by the state board of public school education is final.

SECTION 5. AMENDMENT. Section 15.1-31-07 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-07. Students not subject to this chapter.

- ~~1. If a student, as a result of a school district dissolution or reorganization, resides in a district other than the one the student chooses to attend at the time of the dissolution or reorganization, the student is not subject to this chapter and may attend school in the chosen school district.~~
2. ~~If a student resides in a district other than the one the student is enrolled in for purposes of receiving virtual instruction, the student is not subject to this chapter unless a cost-sharing agreement is established between the school district of residence and the receiving district.~~

SECTION 6. AMENDMENT. Section 15.1-31-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-31-08. Open enrollment - Transfer of students - Responsibility of district of residence.

1. ~~Notwithstanding the provisions of chapter 15.1-31, a~~ student's parent may apply to a contiguous ~~another~~ school district for admission of the student at any time during the school year if:
 - a. The student was a victim of violence occurring within the school in which the student was enrolled and the violence was documented;
 - b. The superintendent of public instruction has declared the school in which the student was enrolled to be an unsafe school; or
 - c. The superintendent of public instruction has identified the school in which the student was enrolled as one that requires program improvement for six consecutive years.
2. The school district receiving an application under subsection 1 shall review the application to ensure compliance with the provisions of subsection 1 and shall notify the student's parent and the student's school district of residence of the arrangements for the student's transfer within five days from the date the application was received.
3. The student's school district of residence shall consider the student transferred as of the date of enrollment by the admitting district.
4. Upon transfer of a student under this section, the board of the admitting district and the board of the student's school district of residence shall enter into a tuition agreement. The student's school district of residence shall reimburse the admitting district for all costs incurred by the admitting district in providing education for the student.
5. The student's school district of residence shall transport the student to school in the admitting district or shall reimburse the admitting district for all costs incurred in transporting the student or providing for the transportation of the student to school in the admitting district. These transportation costs are not reimbursable through state transportation funds.
6. ~~The provisions of this~~ This section is applicable ~~applies~~ to a student until the student's parent or legal guardian decides to enroll the student in another school, or in the case of a student who has been transferred for the student's safety or due to a school's improvement status under subsection 1, until the conclusion of the school year in which the superintendent of public instruction declares that the school in the student's district of residence is no longer an unsafe school or that the school no longer requires program improvement.

Dennis E Johnson
Speaker of the House

Paul Schmitt
President of the Senate

Bull J. Reick
Chief Clerk of the House

Brandi Mogen
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1376.

House Vote: Yeas 79 Nays 13 Absent 2

Senate Vote: Yeas 25 Nays 22 Absent 0

Bull J. Reick
Chief Clerk of the House

Received by the Governor at 9:19 P.M. on April 29, 2023.

Approved at 9:51 A.M. on May 8, 2023.

Doug Burgum
Governor

Filed in this office this 9 day of May, 2023,

at 1:09 o'clock P M.

Michael Howe
Secretary of State